

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
NO. 3:17-cv-454-DSC

)
TIMOTHY C. MCCANN,)
)
)
Plaintiff,)
)
vs.)
)
)
NANCY A. BERRYHILL,)
Acting Commissioner of Social Security)
)
)
Defendant.)

ORDER

Pending before the Court is Plaintiff's Motion for Attorney's Fees under the Equal Access to Justice Act (EAJA). Plaintiff's Counsel and Defendant's Counsel have conferred, and Defendant consents to Plaintiff's Motion for Attorney's Fees. Plaintiff-Appellant has assigned his rights to any attorney's fees payable under the EAJA to his counsel.

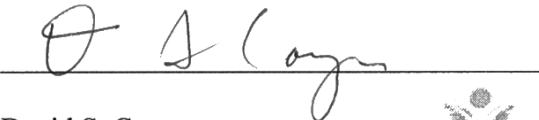
Pursuant to the United States Supreme Court's ruling in *Astrue v. Ratliff*, 130 S. Ct. 2521 (2010), these attorney's fees are payable to Plaintiff as the prevailing party, and are subject to offset through the Treasury Department's Offset Program to satisfy any pre-existing debt Plaintiff may owe to the government. If, subsequent to the entry of the Court's EAJA Order, the Commissioner determines that Plaintiff owes no debt to the government that would subject this award of attorney's fees to offset, the Commissioner may honor Plaintiff's signed assignment of EAJA fees providing for payment of the subject fees to Plaintiff's counsel, rather than to Plaintiff. If, however, the Commissioner discovers that Plaintiff owes the government any debt subject to offset, the Commissioner shall pay any attorney fees remaining after such offset to Plaintiff, rather than to counsel.

Plaintiff shall be paid \$400.00 in costs and \$2,038.78 in attorney's fees from the Judgment Fund by the U.S. Department of the Treasury pursuant to 28 U.S.C. §2412(a)(1).

Accordingly, the Court GRANTS to Motion. Defendant is ordered to pay \$2,438.78 directly to Counsel for Plaintiff.

SO ORDERED.

Signed: May 3, 2018



David S. Cayer
United States Magistrate Judge

